

VOLUNTARY CONCESSIONS, COMMUNITY BENEFITS, TERMS AND CONDITIONS

Spectrum Development LLC/Mason Row

REVISED DECEMBER 9, 2015

In association with the requested rezoning, and special exception to allow the redevelopment of 110, 112, 112A, 212 & 212A North West Street, 916, 920, 922, 924, 926, 928, 930, 932, and 934 West Broad Street, and 919, 921 and 925 Park Avenue (Real Property Code numbers 51-202-009 through 51-202-015, 51-202-003, 51-202-004, 51-202-005, 51-202-028 and 51-202-028 outlot) (the "Subject Property"), Spectrum Development LLC (the "Owner") voluntarily proffers the following for the benefit of the community and the City of Falls Church (the "City"). The Owner acknowledges that through the special exception approval, it has been granted certain bonuses, including height and increased residential uses, and other benefits in return for its agreements as set forth below, to provide certain features, design elements, uses, services, or amenities desired by the City, including but not limited to, site design, environmentally sustainable and energy-efficient building design, affordable housing creation and preservation, and historical preservation as part of the development. As used herein "Owner" shall refer to the applicant, any contract owner, the property owner, and any successors or assigns:

1. Conceptual Development Plan:

The Owner agrees to develop the Subject Property in conformance with (1) the Conceptual Development Plan (CDP) dated December 9, 2015 as prepared by Walter L. Phillips, Inc; (2) the Architectural Elevation Drawings dated December 9, 2015 as prepared by GTM Architects; and (3) the Transportation Management Plan (TMP) dated July, 2015 prepared by Wells & Associates. The City Manager may approve minor deviations from conformance with these documents, as requested by the Owner, provided the deviations do not conflict with what is specifically agreed to in these Voluntary Concessions, are consistent with the purpose and intent of the City Council's approval of the Special Exception, and are necessary to permit reasonable construction of the project. The Owner may appeal an adverse decision by the City Manager to the Planning Commission.

2. Uses:

The Owner agrees that the uses allowed on the Subject Property shall be limited to the following: a hotel use, a multifamily use which is intended to be rental, but can be converted to condominiums at the discretion of the Owner, a movie theater use, an office use on the second level, and a commercial use on the ground floor. Uses shall be approximately as shown in the building square foot amounts and in the locations on the CDP.

3. Commercial Space:

The Owner acknowledges and agrees that the area(s) shown as commercial use(s) on the CDP cannot be converted to residential use(s) without City Council approval. In addition commercial areas designated on the CDP shall not be used for office uses other than as specifically designated on the CDP.

The Owner agrees to provide a hotel and a movie theater as set out in the concessions below. Additionally the Owner commits to use commercially reasonable efforts to market the first floor commercial spaces as described in the attached "Mason Row; Retail Project Plan" prepared by the Owner and retail consultant, Streetsense (referred to as the "Retail Plan"). The Owner does hereby commit that a minimum of 20,000 square feet of the commercial gross leasable area on the ground level will be offered to and exclusively retained for initial leasing to food and beverage retailers. The Owner agrees that the following commercial uses that may otherwise be allowed in the B-1 zoning district shall not be permitted without the express agreement of the City Manager or on an appeal of said City Manager's decision to City Council.

Prohibited Uses:

- Disco
- Roller rink
- Amusement arcade
- Adult pornographic book store
- Adult pornographic theatre or amusement facility
- Facility selling or displaying pornographic materials or having such displays
- Second hand store
- Auction house
- Flea market
- Martial arts studio
- Blood bank
- Funeral home
- Outdoor housing or raising of animals
- Industrial uses (including, without limitation, any manufacturing, smelting, refining, chemical manufacturing or processing, or other manufacturing uses)
- Mining or mineral exploration or development except by non-surface means
- Car wash
- Carnival, amusement park or circus
- Off track betting establishment
- Bingo hall
- Church, temple, synagogue, mosque, or other house of worship
- Facility for the sale of paraphernalia for use with illicit drugs

The Owner further agrees that the following commercial uses that may otherwise be allowed in the B-1 zoning district shall not exceed, in total, 15% (approximately 9,400 sf) of the total commercial gross leasable area (approximately 62,500 sf not including hotel or movie theater

space) on the ground level of Mason Row without the express agreement of the City Manager or on an appeal of said City Manager's decision to City Council.

Conditional Uses:

- Food catering (as a separate commercial tenant)
- Small pet shop/dog training
- Hair styling
- Antiques
- Wireless telephone
- Used clothing
- Used electronics and used video games
- Comic books
- Yoga and Pilates studio
- Spa treatments and acupuncture
- Urgent medical care
- Non-profit organizations (those not included on the prohibited list above)
- Private wealth management office
- Insurance office
- Accounting and tax services
- ABC liquor store
- Packaging and shipping store
- Copy store
- Cleaners
- Office supplies
- Child learning center
- Child fitness center/gym
- Shoe repair
- Travel services
- Wholesale merchants (as defined for BPOL taxation)

Design Requirements:

The Owner agrees that the following design standards shall be met for all retail space identified as part of the GLA in the project:

- Retail ceiling heights: the ground floor retail spaces shall be constructed with a minimum interior ceiling height in public space (measured "slab to slab") of 16 feet in height with minor deviations to be allowed during final Site Plan Approval.
- A minimum of two table service restaurants shall be located at Mason Row and no less than 50% (approximately 31,250 sf) of the total commercial gross leasable area located on the ground level (not including hotel or movie theater space) shall have access to a ventilation shaft to the roof that meets all City Building Code requirements for restaurant use, prior to issuance for a certificate of occupancy for tenant

occupancy for such spaces.

- The Owner agrees that the ground floor retail or other ground floor commercial space wall fronting Mason Avenue, Market Square, W Broad Street or N. West Street shall have an average 70% transparency (meaning a clear view from the outside to the interior space and activity and not obstructed by drapes or blinds, or by any other window coverings) for the area of any wall facing said streets that is between three (3) feet and eight (8) feet above grade. This provision is not intended to prohibit merchandise displays within the transparency area, restaurants that utilize blinds or curtains to shade customers from unwelcomed sunlight.
- All retail buildings that front W. Broad Street east of Mason Avenue and all retail buildings that front N. West Street north of the hotel building shall have retail storefront entrances that provide retail customers ingress and egress to and from W. Broad Street or N. West Street, as the case requires.
- The Owner agrees that use of the loading space on N. West Street as shown on the CDP and the removal of trash from the adjacent trash garage will be prohibited between the hours of 7:00 AM and 9:30 AM and between 4:30 PM and 7:00 PM on weekdays. The Owner agrees that the N. West Street trash garage will be utilized exclusively for disposal of waste generated by the hotel operations and by the other commercial tenants located on the ground level of the hotel building. During Final Site Plan Review the Owner agrees to obtain approval of an operational management plan for the N. West Street trash garage, which among the provisions in the plan will be rules for maintenance of the loading space and trash garage and for the frequency of collections.

Site Specific Uses:

- Phasing of commercial uses before, or simultaneous with, residential uses:

The Owner agrees that approval of the Special Exception by the City Council shall not be final until the City Manager states in writing to the City Council that he has determined there exists an executed copy of a lease with a movie theater tenant of a term no less than ten years for the operation of a movie theater in the space shown on the approved CDP. The movie theater premises will be 20,000 to 33,000 sf; will have 6 to 8 auditoriums; and will seat 500 to 850 persons.

The Owner further agrees that approval of the Special Exception by the City Council shall not be final until the City Manager states in writing to the City Council that he has determined that there exists an executed agreement with a hotel operator with such agreement providing for the construction of a hotel as shown on the approved CDP. The Owner intends to provide the hotel operator with flexibility to select the hotel brand to be located at Mason Row from among

the brands offered by Hilton, Marriott or Hyatt. The hotel shown in the CDP has 145 rooms; however depending on the brand selected (extended stay, lifestyle, etc.) and the volume of meeting and event space, the number of rooms may be less than 145, but shall not be less than 112 rooms. The architectural elevation drawings prepared by GTM Architects dated December 9, 2015 are based on the assumption that the hotel brand will be a Home 2 Suites by Hilton. During Site Plan Approval the hotel brand will be selected by the Owner and hotel operator and the hotel elevations will be finalized to conform to the reasonable branding requirements prescribed by the hotel franchisor; provided, however that the type of materials specified for the hotel will substantially conform to the materials shown for the hotel in the current elevation drawings.

The Manager shall notify the City Council with a copy of the notification sent to the Owner, of having received a copy of the executed lease in the case of the movie theater and a copy of the executed agreement in the case of the hotel, no later than ten (10) business days from the delivery of these contracts to the City Manager by the Owner, in which event the rezoning and special exception approved by the City Council shall be deemed automatically final.

4. School Capital Contribution:

The Owner agrees to make a contribution to the City of Falls Church to offset increased school capital costs resulting from the additional residential density in the development approved through the Special Exception process, as school capital costs are outlined in the City's Adopted Capital Improvement Program. The contribution will equal \$5.24 per square foot of gross residential apartment unit area in the project (excluding affordable dwelling units). The total contribution will be paid prior to issuance of the first residential certificate of occupancy.

5. Affordable Housing Contribution:

The Owner agrees to provide affordable housing on the following terms:

(a) As the Owner and the City agree is consistent with the City of Falls Church Affordable Housing Policy, the Owner will provide affordable dwelling units ("ADUs") in the project equal to six (6) percent of the total number of dwelling units (rounded up to the nearest whole number) plus three additional ADUs for a projected total of 23 ADU's. The proportion of ADU's for studio; one bedroom and two bedroom will follow the same proportionate mix for the market rate units in the project. The ADU size will be in keeping with the typical unit size in the project for each similar unit type. All ADUs will be dispersed throughout the project. If the Owner provides parking for market-rate units, the Owner shall provide at least one parking space for each comparable ADU unit. If a parking fee is imposed, the same parking fee shall apply to comparable ADU units. The Owner shall have the right to require the payment of security deposits and other deposits or fees for ADU units that are also charged to market-rate Units.

- (b) The Owner agrees to record Restrictive Covenants among the land records of the Clerk of the Circuit Court of Arlington County, which shall define terms and conditions of the ADUs as such terms and conditions are agreed to in these Voluntary Concessions regarding issues including, but not limited to, price control periods and owner/renter occupancy and the matters agreed to in these voluntary concessions. These Covenants shall run with the land and be an encumbrance on the ADUs. The Covenants shall be recorded with the City's land records in Arlington County, and evidence of such recordation will be provided to the Zoning Administrator before a Certificate of Occupancy is issued for any dwelling unit in the project.
- (c) The Owner will rent the ADUs directly or through its designated agent to qualified tenants, as determined by the City. The City will regulate and establish ADU qualification priorities and evaluate and qualify prospective applicants in accordance with the Affordable Unit Program official administrative procedures and regulations.
- (d) The monthly rent for the ADUs will be set by the Housing Commission with reference to the U.S. Department of Housing and Urban Development ("HUD") Washington Primary Metropolitan Statistical Area ("PMSA") area median household income ("AMI"). The ADU's that are included in the six (6) percent of total units shall be offered for rents that are affordable to households whose income is no more than 60% of HUD PMSA AMI. The three (3) additional ADU's shall be offered for rents that are affordable to households whose income is no more than 80% of HUD PMSA AMI. Such rents, subject to changes permitted by this **Voluntary Concession 5(d)** will be in effect for a term of 20 years. ADU monthly rent shall include an additional amount as calculated by the percentage increase in AMI, but not less than the original ADU monthly rents listed above.
- (e) If any ADU rental units are marketed for sale as individually and separately owned condominiums within 20 years after the certificate of occupancy is issued for the residential building, then such ADU units will become home ownership units subjected to the conditions in **Voluntary Concession 5(g)** below. The City will be notified a minimum of 120 days prior to the time of sale of any condominium that is part of the project and is an ADU. All ADUs which the Owner desires to sell will be made available for sale within the six-month period. Tenants of individual ADU units will be given the right to purchase their individual unit at prices established under **Voluntary Concession 5(g)**. ADU tenants opting not to purchase will receive relocation benefits from the Owner as outlined in the City of Falls Church Voluntary Relocation policy.
- (f) If sold as a condominium, the Owner agrees to use commercially reasonable efforts to reduce and minimize condominium fees for such ADUs as allowed by the Virginia Condominium Act and applicable law. Upon written notification by the Owner (as outlined by the City) that an ADU is available for sale, the City or its designee will have the right of first offering to purchase the for-sale ADU for a 60-day purchase offer period following delivery of such written notification to the City Manager. In the

event the City does not exercise such right to purchase the ADU or ultimately to close on the sale of the ADU, the ADU shall be offered for sale exclusively to City qualified and designated non-profit organizations for a period of 30 days.

- (g) In the event that the ADU is not sold as outlined above, the Owner will be entitled to sell the ADU without further restrictions, except as set forth in these Voluntary Concessions document at market rates. Net sale proceeds received by the Owner in excess of the ADU price will be divided equally between the City and the Owner. The Owner agrees that the ADU sales price will be set by the Housing Commission with reference to the HUD PMSA AMI at a sales price that are affordable to households whose income is no more than 65% of HUD PMSA AMI.
- (h) The ADU sales price will include an additional amount as calculated by the percentage increase in HUD median income at the time building permits are issued, but not less than the original sales prices listed above. The limitations on sale of ADUs will apply for a period of twenty years following the initial sale and with resale within that first twenty years of each subsequent ADU owner's date of purchase.
- (i) ADU tenants/owners will have the same duties, rights and privileges as all other tenants/owners in the project, except as such ADU duties, rights and privileges are expressly altered by these voluntary concessions.
- (j) A minimum of one of the ADU units shall be accessible as defined by federal law. Additionally, as provided by federal law, all ADU and market-rate units shall be ADA adaptable.
- (k) The Owner will comply with all applicable fair housing laws.

6. Pedestrian Oriented Design Elements:

Streetscape

The Owner agrees that, in order to create a more pedestrian-oriented environment, to help preserve and protect the character of the neighborhood, and to beautify W. Broad Street, N. West Street and Park Avenue, streetscape improvements will be constructed and furnished by the Owner along W. Broad Street (pursuant to the City's adopted Streetscape Plan for W. Broad Street), N. West Street and Park Avenue and will be located on property on which the City has a fee interest for public street purposes, or on property which is owned by the Northern Virginia Regional Park Authority. In the event the existing dedicated area is insufficient to provide such streetscape, the Owner agrees to dedicate, or place in an easement, sufficient property, as shown in the CDP for public street purposes, prior to issuance of the first certificate of occupancy for the project. The improvements will conform to what is

called for in the CDP.

The Owner agrees to maintain the streetscape improvements (excluding street trees and maintenance of and cost of electricity for City standard streetlights) constructed as part of this project as long as the project remains. The terms of such maintenance responsibilities will be set forth in a Streetscape Maintenance Agreement to be negotiated between the Owner and the City, which agreement will be finalized, approved by the City Manager, and executed by the Owner prior to issuance of a Certificate of Occupancy for any occupiable space in the project.

Market Square

The Owner agrees to construct and maintain the surface level plaza and public space labeled Market Square in the CDP with the proposed features and amenities in Market Square to be defined with final Site Plan Design. See CDP sheet P-0402.

Bus Stop

The Owner agrees to construct a bus stop including a shelter with appropriate signage, shelter, and landing pad amenities at a location as generally shown on the CDP, but with the final location to be determined in coordination with the City Manager as being consistent with the City's Bus Stop & Shelter Plan during Site Plan approval. The bus stop design and amenities shall be included in the Site Plan approval, and will be in conformance with the City's adopted Bus Stop & Shelter Plan, which provides specifications and target locations for such bus stops. The shelter shall include conduit and electrical service to allow for installation of a real time bus information sign. The Owner further agrees that, in lieu of building the shelter, and at the discretion of City, the Owner shall pay the City \$30,000 prior to the issuance of building permits for the project, as its contribution toward a bus shelter elsewhere in the City.

Undergrounding of Utilities

The Owner agrees to place all on-site utilities underground. The Owner agrees to obtain the City Manager's approval of a utility undergrounding plan and layout that meets the standards of this condition and that meets any requirements of the applicable public utility and the City, before issuance of any Building Permit for the Project. The Owner agrees to work directly with the Utility Companies to contract and arrange for the undergrounding of overhead utilities. In addition, the Owner will coordinate its efforts with the City's plans for undergrounding utility poles in the vicinity of the subject property. The final location of switchgear equipment and transformers in underground vaults, in buildings or above ground will be determined during Site Plan Approval among the Owner, City Public Works and Virginia Dominion Power.

The Owner agrees to underground the three utility poles off site along a portion of the

north side of N. West Street between Grove Avenue and the W&OD trail crossing on N. West Street subject to permission being granted by the Northern Virginia Regional Park Authority ('NVRPA"). The Owner agrees to restore W&OD landscaping disturbed by the Project's utility undergrounding and pedestrian improvements, and plant 2.5-inch caliper trees at 30-foot spacing adjacent to all sidewalks constructed by the Project on the north sides of N. West Street, replacing existing landscaping where necessary to install the new trees. The trees shall match the Project's Park Avenue street trees, if compatible with remaining utilities.

Pedestrian Improvements, Connection and Ways

The Owner agrees to construct pedestrian improvements as shown on the CDP which will include: (i) installation of crosswalks at N. West and Park Avenue intersection, (ii) installation of pedestrian crosswalk including median island for refuge across N. West Street at Grove Avenue intersection, (iii) installation of new crosswalks on two legs of the 4-way N. West and W. Broad intersection; iv) installation of crosswalk across W. Broad at the eastern vehicular access point of the property, and v) construct improvements to the W&OD trail crossing on Grove Avenue and N. West Street.

7. Environmental Improvements:

Green Building Criteria: National Green Building Standard ("NGBS"). The Owner agrees to have the Subject Project designed such that it will achieve a green building certification level of NGBS Silver for the multi-family portion of the project. Prior to release of the final site plan, the Owner will provide the City with evidence of the hiring of an accredited verifier ("Verifier") who has registered the project with Home Innovation Research Labs. The Owner will provide evidence to the City of submission of design information to the Verifier and scheduling of a mandatory inspection prior to installation of drywall. Prior to issuance of the first certificate of occupancy for residential tenant occupancy of the Subject Property, the Owner will provide evidence to the City of submission of materials for the construction phase to Home Innovation Research Labs, the scheduling of the final inspection and the necessary documentation to seek official NGBS Silver certification within six months of obtaining the final certificate of occupancy for residential tenant occupancy of the Subject Property. The Owner agrees that evidence of such submission will be provided to the Zoning Administrator as required in this **Voluntary Concession 7**. Prior to the issuance of the first certificate of occupancy for tenant occupancy, the Owner will provide the City with a **\$50,000** letter of credit which includes terms approved in advance by the City Manager to assure the City that the Owner will satisfy its obligations under this paragraph to achieve NGBS Silver certification. Such letter of credit will be returned to Owner if the intended NGBS Silver certification is achieved within three years after the issuance of a certificate of occupancy for the last residential unit. If the project does not achieve the intended NGBS Silver certification within three years after the issuance of a certificate of occupancy for the last residential unit, the City will redeem the letter of credit to be used for environmental improvements in the City.

The hotel developer will employ sustainable practices in the construction of the hotel, and will agree to achieve LEED certification. The hotel developer will provide evidence to the City of ongoing compliance with LEED certifier's guidelines for document submissions. Prior to the issuance of the certificate of occupancy for the hotel, the Owner will provide the City with a \$20,000 letter of credit which includes terms approved in advance by the City Manager to assure the City that the Owner will satisfy its obligations under this paragraph to achieve LEED certification. Such letter of credit will be returned to Owner if the intended LEED certification is achieved within three years after the issuance of a certificate of occupancy for the last residential unit. If the project does not achieve the intended LEED certification within three years after the issuance of a certificate of occupancy for the last hotel room, the City will redeem the letter of credit to be used for environmental improvements in the City.

Electric Vehicle Charging Station: A minimum of four charging station for electric vehicles will be provided in the project parking garage. The location of the charging station will be determined at Site Plan Approval.

Storm Drainage and Runoff: The Owner agrees that the development will meet the water quantity and quality requirements by the State, effective July 1, 2014, to reduce the phosphorus runoff of the equivalent existing impervious area on the site by 20%, and for any additional impervious area beyond existing, to release a maximum overall runoff from the site to meet the Channel Protection and Flood phosphorus of 0.41 lbs/ac/yr. Additionally, the site will reduce the overall runoff from the site to meet the Channel Protection and Flood Protection requirements from the State. These requirements will be met through onsite water quality treatment utilizing approved BMP Clearinghouse methods, and with onsite detention.

Removal of Contaminated Soil: During construction, the Owner agrees to remove contaminated soils from the site and transport the same to a site authorized and able to handle such contaminated soils in accordance with applicable environmental state and federal regulations. The Owner agrees to provide documentation of compliance with this requirement to the City.

8. **Installation of Vegetation:** The Owner agrees that the vegetation installed for the project will consist of native and regionally adapted species with a majority being from the City's list of recommended plants. Final sizes, species and placement will be determined at Site Plan Approval. Plant materials shall be at least the following sizes at installation:

- Evergreen trees (8 to 10 feet in height at planting)
- Shade trees (minimum 3.5 inch caliper, 16 feet in height at planting on W Broad Street and minimum 2.5 inch caliper otherwise)
- Shrubs (minimum spread 18 to 24 inches)

In the event a substitution of approved native plants is required to enable the Owner to

meet NGBS criteria, the City Manager or his designee may approve a substitute plant or procedure called for in this **Voluntary Concession 8** to meet the requirements for NGBS certification, if he finds the substitute plant is as hardy and has a similar growth habit to the original plant. The timing of installation of vegetation shall be determined during the Site Plan Approval. The City Arborist may allow modification to the timing of installation based on the planting season, availability of plant materials, or weather, which may not permit installation of plant materials and/or street trees by the required timing.

9. **Lighting:** The Owner agrees that all exterior lighting for the Subject Property shall comply with the City Ordinances with respect to spill over to residential neighborhood north and east of the project, and exterior lighting shall be shielded and directed away from any adjacent residential property. Any building mounted signs which face the residential neighborhood to the north and east shall not be internally illuminated with translucent panels.
10. **Stormwater & Sanitary Sewer Capacity Expansion:** The Owner agrees that at the Owner's expense to reline or construct new 15 inch diameter storm sewer line(s) between existing storm structure 879 and existing storm structure 2266, to provide sufficient capacity for the development. Such sewer line design and construction will be built according to the specifications of the City Public Works Department, and will be completed before obtaining the first certificate of occupancy for the project.

Sanitary Sewer: The Owner agrees to conduct a sewer capacity analysis by a qualified engineer from structure 70 to structure 25 and structure 70 to 144. During Site Plan the Owner and City Public Works will determine the sanitary sewer improvements that are necessary to alleviate capacity concerns identified after development flows are modeled. The design and construction costs to perform necessary improvements (excluding capacity analysis) will be determined during Site Plan Approval. The Owner agrees to design and construct the system improvements. The City will waive part or all of Sewer Availability fees in an amount equal to the verified costs of design and construction of said improvements.

11. **Transportation Improvements:**

Traffic Signals: The Owner agrees to install a traffic signal at the Mason Avenue, N. West and Park Avenue intersection and at the eastern garage entrance to the development on W. Broad Street as shown on the CDP as may be warranted and/or approved by the City. The Owner will be responsible for the design, Traffic Impact Assessment, warrant study, easement/right-of-way acquisition, and installation of these traffic signals. The Owner shall be found to have fulfilled this condition upon approval of the traffic signal as fully operational by the City Manager. The Owner agrees to obtain the City Manager's approval of the traffic signals as fully operational before issuance of the first certificates of occupancy for the residential building for which a certificate of occupancy is issued,

provided the City review process is reasonably diligent and not delayed by VDOT review.

Street Capacity and Safety Improvements The Owner agrees to (i) realign the Mason Avenue, N. West and Park Avenue intersection, (ii) realign the W&OD trail to cross N. West Street at the traffic signal, (iii) realign the W&OD Trail to cross Grove Avenue at an approximate 90% angle to Grove Avenue, construct a raised Trail crossing and add bump outs to reduce the road width of Grove Avenue at the W&OD Trail, iv) add a westbound only right turn-lane continuing onto N. West Street for the south approach on N. West Street to the intersection with Park Avenue/Mason Avenue, (v) add an additional east bound turn lane onto W. Broad for the south approach on N. West to the intersection, (vi) modify and extend the West Broad eastbound left turn lane approaching the signalized entrance to the parking garage, and (vii) add a northbound lane for northbound traffic on N. West Street that provides for a westbound left turn into the Wells Fargo parking lot and provides for a northwest left turn onto Grove Avenue, all as shown on the CDP. Implementation of the foregoing traffic signals and lane improvement designs are subject to final site engineering, signal design, and VDOT review and as the case may require, City and/or Northern Virginia Regional Park Authority approval.

The Owner agrees to construct two speed tables to calm traffic on Grove Avenue at locations designated and approved by the City.

The Owner agrees to mill and repave West Broad Street from the centerline to curb along the entire property frontage and the eastbound lanes from centerline to curb along the proposed median modifications; N. West Street from curb to curb along the property frontage; and Park Avenue from curb to the curb along the property frontage. The Owner agrees that paving work will be done per paving specifications provided by the City Public Works Department and will be completed prior to the issuance of the final certificate of occupancy.

The Owner agrees to replace and reconstruct sidewalk sections that were damaged by project construction at the end of the construction phase of the project, per specifications provided by the City Public Works Department.

12. **Parking Garage:** The Owner agrees that any parking garage walls that are visible, across a street from a single family home, shall be at least 42 inches high, so as to block headlights of vehicles parking in the garage from shining across the street.
13. **Transportation Demand Management (TDM) and Parking Management Plan:** The Owner agrees to develop and implement a TDM program as referenced in the Transportation Management Plan. The "TDM and Parking Management Plan" shall achieve the following goals: (i) reduce onsite parking demand by 13 percent from City standards, (ii) reduce the number of peak hour vehicle trips by 25 percent from ITE Trip Generation Model predictions, and (iii) achieve a minimum non-Single Occupancy Vehicle (SOV) mode share of 47 percent. The TDM will include a list of infrastructure and incentives to be provided as well as monitoring programs and additional techniques to

be administered in case performance goals are not achieved. The TDM program will conform to these documents and the CDP and will be finalized and approved as part of the Site Plan process. In addition, the Owner will develop and implement a Parking Management Plan, which the Owner agrees to finalize and obtain approval for as part of Site Plan approval.

Access to Property for Monitoring of Parking Utilization and Monitoring of TDM and Parking Management Plans: The Owner agrees that City of Falls Church staff upon prior written notice to the Owner's designated representative will have access to the garage(s) on the Subject Property at all times to conduct parking utilization counts and to monitor compliance with the TDM and Parking Management Plans.

14. **On-Street Parking Restrictions:** As part of the conditions to employment for persons working in businesses located at the project, the Owner agrees that no persons employed on the Subject Property will be permitted to park on City streets during their working hours. The Owner agrees to make available sufficient parking spaces on the property for all employees working at the project and to require all employees who drive to work on the Subject Property to park in the parking garage on the Subject Property during their shift.
15. **Shuttle Service:** The Owner agrees to require the hotel developer to provide a shuttle service to the East and/or West Falls Church Metro stations for its employees and guests during business hours. The shuttle service will begin operating within 60 days after the hotel opens for business. Any decisions to cancel or modify the hotel shuttle service in the future will be made in conformance with the administration of the "TDM and Parking Management Plan".
16. **Bicycle Parking, Storage and BikeShare:**

Bike Parking and Storage. The Owner agrees to provide Class 3 visitor bike racks as shown on the CDP and Class1 bike storage consistent with Arlington County bicycle parking standards and requirements, finalized and approved as part of Site Plan approval.

BikeShare The Owner agrees to grant an easement to the City for installation and operation of a bike share facility at the location shown on the CDP and finalized with the approved Site Plan. Further, the Owner agrees to provide an annual financial contribution of **\$14,000** to pay for the operation and maintenance of the BikeShare facility after its installation. The annual financial contribution will be made every year after installation of the BikeShare facility for the life of the project or until the discontinuation of the BikeShare facility at the Subject Property.
17. **Post-Development Traffic Study and Improvements:** The Owner agrees to pay the cost of a post-development traffic study and improvements, up to a total of **\$50,000**. The update will be conducted approximately twelve months after completion of the project. The

scope of the study will be finalized with City staff and may include an analysis of post-development traffic patterns, volumes and impacts, as well as neighborhood pass-through traffic and potential traffic calming strategies, as warranted. In the event the Owner fails to complete the traffic study and improvements by a date that is two years after issuance of the first certificate of occupancy for any space on the top floor of the building, the Owner agrees to pay **\$50,000** to the City. The Owner agrees that such amount will be due, without notice from the City, on the date that is twenty-five months after issuance of the first certificate of occupancy for any space on the top floor of the building.

18. **Parks and Recreation Contribution:** In return for various benefits to the Owner granted through the special exception process and to ameliorate the reduction of open space in the City resulting from the Special Exception Approval, the Owner agrees to increase the environmental sustainability of its project by contributing to the City's parks. The Owner agrees to provide a contribution to the City of **\$500** per residential unit (excluding ADUs) in support of community improvements and future planned upgrades to City owned Parks in the area. The total contribution will be paid prior to issuance of the first residential certificate of occupancy.
19. **Public Art and Art Space:** The Owner agrees to make a **\$25,000** contribution to The Little City C.A.T.C.H Foundation (C.A.T.C.H.). The contribution shall be used by the Foundation to fund grants to organizations that desire to stage art, history or cultural events and other performance activities in the public space at Mason Row. The Owner agrees to provide evidence of such payment having been made prior to issuance of the first residential certificate of occupancy for the Project. The Owner also agrees to make the Market Square public space available to C.A.T.C.H as a venue for C.A.T.C. H. to produce and manage a minimum of four special events per year. The Owner agrees to provide the name and telephone number in writing, of a person the Owner will designate to serve as a liaison to C.A.T.C.H., to the City Manager and to the C.A.T.C.H. chair person. This Owner representative will work with C.A.T.C.H. on logistics and marketing of the special events.
20. **Falls Church Public Library Contribution:** In return for various benefits to the Owner granted through the special exception process and to ameliorate the effect on the community of the additional residential density approved through the special exception process on the community, the Owner agrees to provide, as a service for the community, a contribution to the City's public libraries. The Owner agrees to make a capital contribution for public library construction. The contribution will equal **\$0.62** per square foot of gross residential apartment unit area in the project (excluding affordable dwelling units). Such payment shall be made prior to issuance of the first residential certificate of occupancy for the Project.
21. **Construction Management:**

Construction Parking and Staging Plan: Prior to issuance of any demolition and/or building permits the Owner agrees to prepare, submit, and obtain the City Manager's approval of a demolition and staging plan for the project. All demolition and construction of the project shall be done in conformance with the approved demolition and staging plan. Once a contractor has been selected for the project, the Owner will prepare a Construction Parking Plan and a Construction Traffic and Staging Plan to be enforced by the Owner for the entire the construction phase of the project, and to obtain the City Manager's approval of the plan as providing sufficient parking or other transportation services for working to the site, and not having an adverse impact on traffic safety, prior to the issuance of any building permit for the project. The Owner acknowledges and agrees that violations of these Plans during construction can result in a Stop Work Order and other enforcement measures by the City.

Community Liaison: The Owner agrees to designate a representative who is physically present on a regular basis on the Subject Property to serve as a liaison to the community for the period leading up to the issuance of the first Certificate of Occupancy and for two years thereafter. The Owner agrees to provide the name and telephone number of the liaison, in writing, to the City Manager prior to commencement of any work on the site.

Excavation Monitoring: The Owner agrees to continuously monitor for soil movement and structural damage to adjacent structures during and after excavation for the project. Structures within a distance equivalent to or less than the depth of the excavation plus 10 feet will be surveyed by the Owner for pre-development conditions and compared to post-development conditions. For such structures, the Owner agrees to provide insurance coverage for damages caused by excavations or construction activities, as independently verified by a third party engineering consultant provided by the Owner. In no way will this provision limit the liability of the Owner or its contractors for damages caused by construction activity.

Sidewalk Accessibility: The Owner agrees to maintain safe pedestrian walkways throughout construction and thereafter, and to ensure that such walkways are, at all times, separated from street traffic. Sidewalks shall not be completely closed on either side of the street, unless the City Manager or his designee approves such closing, after finding that the Owner (1) cannot reasonably provide such a pedestrian walkway, (2) will provide clear signs and access to the sidewalk on the other side of the street, and (3) will manage the closure so that the pedestrian walkway is not closed for more than the time reasonably required to ensure pedestrian safety.

Pest Control: The Owner agrees to contract with a certified pest control company licensed to do such business in the Commonwealth of Virginia for a thorough extermination of any pests and/or rodents that may be present on the Subject Property prior to the start of demolition work and/or any other land disturbing activities, and throughout construction.

22. Public Safety:

Public Safety Radio: The Owner agrees to ensure that all buildings and parking garages on the Subject Property are constructed in a manner that permit public safety radio signals to be transmitted and received throughout all areas within the building and from those areas to all outdoor areas of the property that is the subject of the Special Exception. The Owner will install the necessary equipment and, with at least five days' notice to the City Manager, perform a radio transmission test upon completion of the project, but prior to issuance of the first Certificate of Occupancy, in order to establish that there exists the ability to transmit and receive public safety radio signals from the interior of the building and parking garages, including the subterranean levels. The Owner agrees to permit the City Manager or his designee to be present at the site during the tests and to verify the results. Should the test fail, the Owner will find and implement a solution acceptable to the City so as to resolve the problem with 90 days of the test.

Emergency Generator: To provide building safety for residents and responders during an emergency and to have the appropriate resilience to meet the demands for community safety, the Owner agrees to provide a natural gas emergency generator sized to accommodate the following loads (all at one time) for the Subject Property:

- Fire alarm system;
- Fire pump, if equipped;
- Emergency hall and exiting lighting;
- One elevator;
- Domestic water pumps; and
- Sump pumps.

Driveway/Ramp Load Capacity: Mason Avenue will be engineered and constructed to support the weight of, and permit passage of, a 60,000-pound ladder truck as currently used by the fire department.

23. Easements: The Owner agrees to provide such Easements to the City, in a form and substance as approved by the City Manager, as are shown on the CDP

24. Other Terms and Conditions:

Owner Acknowledgements: The Owner acknowledges, understands and agrees that the Subject Property will be developed in accordance with the applications approved by the City Council for the Subject Property and in full compliance with all applicable laws, codes, ordinances, charters, statutes, rules, regulations, agreements, and commitments.

The Owner acknowledges and agrees that the Special Exception, as granted, runs with the land and is not transferable to other land.

The Owner acknowledges that the Special Exception will automatically expire without notice, 36 months after the date of approval unless the use has been established or an above-grade building permit has been issued and construction has commenced and been diligently pursued, in accordance with Section 48-90 (d) (6) of the City of Falls Church Zoning Ordinance.

Proffered Conditions Binding on Future Owners: The Owner agrees that these Voluntary Proffered Concessions will apply to and be binding upon all future owners, and upon all heirs, successors and assigns of any owner of any portion of the Subject Property, and the Owner further agrees that it will provide a copy of these Voluntary Proffered Conditions to any such future owner, heir, successor and assign prior to transferring any interest in any part of the Subject Property to any such person, firm, corporation, or other entity.

Administrative Staff Approvals: Site Plan approval is defined as approval of the Site Plan for the Subject Property by the Planning Commission. The Owner agrees to apply within 90 days of Site Plan approval for associated administrative staff approvals and related bonds using good faith efforts to complete these approvals in a timely manner. There may be consideration of one extension of three months following the initial 90 days at the discretion of the Director of the Department of Development Services.

Access for Commissioner of Revenue: The Owner agrees that the City of Falls Church Commissioner of Revenue (Cora) and/or his designated staff upon prior written notice to an Owner designated representative will have access to the garage(s) on the Subject Property at all times for inspection of window stickers related to personal property taxes for vehicles. The Cora and staff will be provided all credentials necessary to have access to parking garage(s) by vehicle at all times. In the event the access credentials are changed or updated, the Cora will be provided notice and updated access credentials within 30 calendar days.

Terms and Conditions Incorporated in Resolution: The Owner voluntarily submits the foregoing concessions, terms, and conditions to the City Council to be incorporated by reference with the Resolution for the Special Exception, should City Council grant the applications for Special Exception with the conditions set forth in this submission.

By: _____, its authorized representative

Name: Richard P. Buskell

Title: Manager/Member

Date: December __, 2015